

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

SPEAR, et al.

v.

FENKELL, et al.

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CIVIL ACTION

NO. 13-02391

**RICHARD A. LLORET
U.S. MAGISTRATE JUDGE**

November 24, 2014

ORDER

AND NOW, this 24th day of November, 2014, for the reasons stated in the Memorandum Opinion accompanying this Order, it is **ORDERED** that Defendant David B. Fenkell's Motion to Disqualify (Docket No. 178) is **DENIED**.

It is **FURTHER ORDERED** that on or before 5 p.m. on December 5, 2014, plaintiffs Alliance ESOP and Barbie Spear, in her fiduciary capacity, and Third Party Defendant Barbie Spear, individually, shall submit a memorandum of no more than 10 pages in length addressing (1) whether counsel's multiple representation, including dual capacity representation of Barbie Spear, violates Pennsylvania Rule of Professional Conduct 1.7, applicable to attorneys practicing in this District, and 2) what steps short of disqualification this court may take in the event such a conflict appears. Counsel for Mr. Fenkell shall file a similar memorandum regarding dual capacity representation of Mr. Fenkell. Mr. Fenkell's memorandum is also due on or before 5 p.m. on December 5, 2014.

The parties may respond to each other's memoranda on or before December 12, 2014. The responsive memoranda shall be no more than 5 pages in length.

s/Richard A. Lloret
RICHARD A. LLORET
U.S. Magistrate Judge